

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 02/28/2011. OMB 0651-0020

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## REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH*\*

Attorney Docket Number: SPINE 3.0-437 CPCPCPCPCPCPCP I CON II

Application Number: 10/663,487-Conf. #2429

Filing Date (or 371(b) or (f) Date): September 16, 2003

Patent Number: 7,635,368

Issue Date: December 22, 2009

First Named Inventor: Joseph P. Errico

Title: INTERVERTEBRAL SPACER DEVICE HAVING SIMULTANEOUSLY ENGAGEABLE ANGLED PERIMETERS FOR MANIPULATION USING A SURGICAL TOOLS

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

\**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature	/William A. Di Bianca/	Date	April 14, 2010
Name (Print/Typed)	William A. Di Bianca	Registration Number	58,653
<b>Note:</b> Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms if more than one signature, see below*.			
<input type="checkbox"/> *Total of <u>1</u> forms are submitted.			

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).

Dated: April 14, 2010

Electronic Signature for William A. Di Bianca: /William A. Di Bianca/